

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 8/10/2021
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CALLVOX, LLC,

Plaintiff,

- against -

LIMECOM INC.,

Defendant.
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19 Civ. 6300 (VM)

ORDER

VICTOR MARRERO, United States District Judge.

The Complaint in this action was filed on July 8, 2019. (Dkt. No. 1.) An electronic summons issued on July 9, 2019, but was not served for several months thereafter. (See Dkt. No. 5.) On February 25, 2020, the Court directed Plaintiff to inform the Court regarding the status of the matter and its intent with regard to any further proceedings, warning that the matter could be dismissed for lack of prosecution if Plaintiff failed to respond. (Dkt. No. 7.) Plaintiff did not respond to that order directly, but filed an affidavit of service on March 26, 2020. (See Dkt. No. 8.)

After filing the affidavit of service, almost a year went by with no record of any proceedings or filings in the matter. On February 3, 2021, the Court again directed Plaintiff to inform the Court of the status of the matter and, for the second time, warned that the matter could be dismissed for lack of prosecution. (Dkt. No. 9.) Plaintiff responded by letter dated March 5, 2021, indicating it had been unable to effectuate service and that it "now plans to move this Court, with 15 days, to permit alternative service on the Defendant." (Dkt. No. 10.)

Several months passed and no such motion was filed. On July 1, 2021, the Court issued yet another order, directing

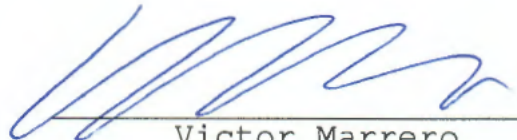
Plaintiff to inform the Court within 30 days of the status of the matter and its intent with regard to any further proceedings, again warning of the risk of dismissal. (See Dkt. No. 11.) The Plaintiff failed to respond within 30 days, and there is no record of any proceedings or filings in the matter since July 1, 2021. Thus, the Court concludes that dismissal for failure to prosecute is warranted based on the Court's review of the record in this case and the applicable case law. See Shannon v. Gen. Elec. Co., 186 F.3d 186, 194 (2d Cir. 1999) (setting forth "five principal factors" to consider when dismissing an action for failure to prosecute); see also Martens v. Thomann, 273 F.3d 159, 179 (2d Cir. 2001) ("A district court also has the power to dismiss for failure to prosecute sua sponte.").

Accordingly, it is hereby

ORDERED that this action be conditionally discontinued with prejudice and without costs, unless within five (5) days of the date of this Order, Plaintiff files a letter in the public docket showing good cause why the matter should not be dismissed. This Order shall be deemed a final dismissal of the action with prejudice in the event Plaintiff fails to respond within such period of time.

SO ORDERED.

Dated: New York, New York
10 August 2021



Victor Marrero
U.S.D.J.